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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,040	08/16/2005	Cornelia Weiss	10191/3588	2766
26646 7590 05/12/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER NGUYEN, CUONG H				
ART UNIT 3661		PAPER NUMBER		
MAIL DATE 05/12/2008		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/517,040

Applicant(s)

WEISS ET AL.

Examiner

CUONG H. NGUYEN

Art Unit

3661

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This Office Action is the answer to a communication received on 2/19/2008.
2. Claims 1-18 are pending in this application; wherein claims 1-9 were canceled, claims 10-16 are withdrawn on 2/19/08; new claims 19-30 are added.

Priority

3. This application claims a Germany priority of 6/10/2002.

Drawings

4. Four sheets of informal drawing were filed on 12/06/2004.

Reason for Restrictions

5. The applicant argues that the original claims "...does not impose any additional burden on the Office..."); the examiner submits that they are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Restriction for examination purposes as indicated is proper because all these inventions listed (Group I: claims 1-3, 6, 8, 12-17, 19-21, 24, 25 are drawn to a control system configured to control a position of a working implement, classified in class 701/50. Group II: claim 26 is directed to a method of utilizing a control system to control a position classified in class 701/206 – please note that there is a big different of invent a physical system, and suggesting steps to control a position), are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 24, and 30 are rejected under 35 U.S.C. 112, first paragraph, because the best mode contemplated by the inventor has not been disclosed. Evidence of concealment of the best mode is based upon claiming a device comprising data terminal programs for vehicle-related services; however, the examiner fails to see these claimed programs are disclosed in this pending application for one with skill in the art to practice this invention (note that a computer program must be presented in a form that readable by a computer).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 17-21, and 24-28, 30 are rejected under 35 U.S.C. 102 (B) as being anticipated by Rigo et al. (US 2002/0049535A1).

A. As to claims 17-19, 25, and 28: Rigo et al. disclose a device for a vehicle-related telematics service (see Rigo et al., the abstract, and paragraph 0022, lines 1-8) comprising:

- a data terminal arranged in a vehicle, the data terminal configured to communicate wirelessly via an air interface with a service center and via an interface with a control unit arranged in the vehicle; wherein the data terminal is configured to receive and transmit messages via the wireless communication and transmit and receive messages via the interface to carrying out the telematics service, a same application protocol being used both for the transmission via wireless communication.

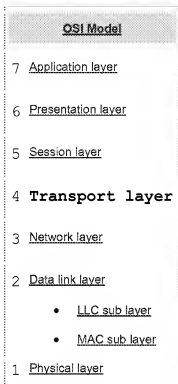
B. As to claims 21, and 27: Rigo et al.'s unit use a transport protocol layer which implements data arriving or transmitted via wireless communication (see Rigo et al., Figures 1, 4).

In telecommunication, it is a standard that a transport protocol is provided between a control unit and a data terminal, and wherein to ensure the communication, the transport protocol requires to follow timing conditions when transmit/receive signals (see Rigo et al., "The

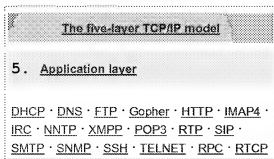
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telematic unit (32) connects wirelessly to carry voice and data between the unit (32) and a wireless communication protocol adapter (201) at the off-board computing facility or central station (22)").

Note: A Transport layer is defined by Wikipedia(the free encyclopedia):



In computing and telecommunications, the **transport layer** is the second highest layer in the four and five layer TCP/IP reference models, where it responds to service requests from the application layer and issues service requests to the network layer. It is also the name of layer four of the seven layer OSI model, where it responds to service requests from the session layer and issues service requests to the network layer. The definitions of the transport layer are slightly different in these two models. This article primarily refers to the TCP/IP model. See also the OSI model definition of the transport layer.



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RTSP · TLS (and SSL) · SDP · SOAP · GTP · STUN · NTP · (more)
4. Transport layer
TCP · UDP · DCCP · SCTP · RSVP · ECN · (more)
3. Network/internet layer
IP (IPv4 · IPv6) · OSPF · IS-IS · BGP · IPsec · ARP · RARP · RIP · ICMP · ICMPv6 · IGMP · (more)
2. Data link layer
802.11 (WLAN) · 802.16 · Wi-Fi · WiMAX · ATM · DTM · Token ring · Ethernet · FDDI · Frame Relay · GPRS · EVDO · HSPA · HDLC · PPP · PPTP · L2TP · ISDN · ARCnet · LLTD · (more)
1. Physical layer
Ethernet physical layer · RS-232 · SONET/SDH · G.709 · Optical fiber · Coaxial cable · Twisted pair · (more)
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A transport protocol is a [protocol](#) on the transport layer. The two most widely used transport protocols on the Internet are the connection oriented TCP ([Transmission Control Protocol](#)), and connectionless UDP ([User Datagram Protocol](#)). TCP is the more complicated and most common. Other options are the [Datagram Congestion Control Protocol](#) (DCCP) and [Stream Control Transmission Protocol](#) (SCTP).

The transport layer is typically handled by processes in the host computer operational system, and not by routers and switches. The transport layer usually turns the unreliable and very basic service provided by the Network layer into a more powerful one.

In the TCP/IP model, the transport layer is responsible for delivering data to the appropriate application process on the host computers. This involves [statistical multiplexing](#) of data from different application processes, i.e. forming data packets, and adding source and destination port numbers in the header of each transport layer data packet. Together with the source and destination IP address, the port numbers constitutes a [network socket](#), i.e. an identification address of the process-to-process communication. In the OSI model, this function is supported by the [session layer](#).

Some transport layer protocols, for example TCP but not UDP, support virtual circuits, i.e. provide connection oriented communication over an underlying packet oriented datagram network. A byte-stream is delivered while hiding the packet mode communication for the application processes. This involves connection establishment, dividing of the data stream into packets called segments, segment numbering and reordering of out-of order data.

Finally, some transport layer protocols, for example TCP but not UDP, provides end-to-end reliable communication, i.e. error recovery by means of error detecting code and automatic repeat request (ARQ) protocol. The ARQ protocol also provides flow control, which may be combined with congestion avoidance.

UDP is a very simple service, and does not provide virtual circuits, nor reliable communication, leaving these to the application. The UDP packets are called datagrams rather than segments.

TCP is used for many protocols, including HTTP web browsing and email transfer. UDP may be used for multicasting and broadcasting, since retransmissions are not possible to a large amount of hosts. UDP typically gives higher throughput and shorter latency, and is therefore often used for realtime multimedia communication where packet loss occasionally can be accepted, for example IP-TV and IP-telephony, and for online computer games.

In many non-IP-based networks, for example X.25, Frame Relay and ATM, the connection oriented communication is implemented at network layer or data link layer rather than the transport layer. In X.25, in telephone network modems and in wireless communication systems, reliable node-to-node communication is implemented at lower protocol layers.

In the OSI/X.25 protocol suite, there are five classes of the OSI transport protocol, ranging from class 0 (which is also known as **TP0** and provides the least error recovery) to class 4 (which is also known as **TP4** and is designed for less reliable networks, similar to the Internet).

C. As to claims 20, and 26: Rigo et al. teach about transmit/receive real-time signals to comply with the timing conditions (see Rigo et al., claim 14, and paragraphs [0050] – [0051]).

D. As to claims 24, and 30: With their unit 32, Rigo et al. teach about using computer programs for the vehicle-related telematics service (i.e., a pricing program, see paragraph [0030]).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole

would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102 (or (g)) prior art under 35 U.S.C. 103(a).

8. Claims 22, and 28 are rejected under 35 U.S.C. 103 (a) as being anticipated by Rigo et al. (US 2002/0049535A1), in view of Bowman-Amuah (US Pat. 6,640,238).

Rigo et al., teach about a device to transmit/receive a message received via a wireless communication (see Rigo et al., Figure 4).

Rigo et al. do not disclose that a complete message is fragmented or defragmented in the data terminal for in-vehicle communication.

However, Bowman_Amuah teaches that a complete message is fragmented or defragmented in the data terminal for in-vehicle communication (see Bowman Amuah's disclosure:, in Detailed Description Text (para. 1008): "Fragmentation/Reassembly--The Packet Forwarding/Internetworking service divides an application message into multiple packets of a size suitable for network transmission. The individual packets include information to allow the receiving node to reassemble them into the message.").

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system taught by Rigo et al. to include Bowman-Amuah teaching for fragmentation/de-fragmentation of a data message into multiple packets of a size suitable for network transmission.

9. Claims 23, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rigo et al. (US 20020049535A1) and in view of Robinson et al. (US Pat. 6,647,323).

Rigo et al. teaches a remote diagnosis service provider, however, Rigo et al. fails to disclose that a diagnosis protocol is KWP2000 (i.e., an electronic control device decides that a communication protocol of a controller is KWP2000 (Key Word Protocol 2000)).

Robinson et al. teaches a vehicle system with a diagnosis protocol is KWP2000 (see Robinson et al., column 2, lines 24-28).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system taught by Rigo et al. to include the diagnosis protocol of Robinson et al so that the vehicle controller software is capable of interfacing with a communication network that comprises the available KWP2000, for the advantage of a remote development, a diagnostic, and other software tools can communicate with the communication network to access vehicle's data.

10. Note: from online dictionary for Information Science:

- gateway: Computer software that allows the user to access data stored on a host computer via a network. Also refers to the hardware device that interconnects two separate networks, providing a pathway for the transfer of data and any protocol conversion required, for example, between the messaging protocols of two different e-mail systems.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 571-272-6759 (email address: cuong.nguyen@uspto.gov). The examiner can normally be reached on 9:30 am - 5:30 pm. Mon. – Tues., and Thurs. – Friday.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Please provide support, with page and line numbers, for any amended or new claim in an effort to help advance prosecution; otherwise any new claim language that is introduced in an amended or new claim may be considered as new matter, especially if the Application is a Jumbo Application.

/CUONG H. NGUYEN/
Primary Examiner
Art Unit 3661